

## REMARKS

### **1. Election/Restriction**

Applicant gratefully acknowledges the Examiner's withdrawal of the Election/Restriction requirement.

### **2. Interview Summary**

During a telephone interview on October 11, 2005, the Examiner discussed informal amendments to the claims, which the Applicant submitted informally for the Examiner's review. At that time, no agreement was reached as to the allowability of the amended claims. However, the Examiner referred Applicant to the Abstract; col. 3, ll. 52-64; col. 4, ll. 15-27; col. 6; and Figure 2, items 66, 68, and 70 of Marshall (U.S. Patent. No. 5,675,746). The amended claims are different from the informal claim amendments previously discussed.

### **2. Claim rejections – 35 U.S.C. § 103**

In the Office Action mailed May 31, 2005, the Examiner rejected claims 1-55 under 35 U.S.C. § 103(a) as being unpatentable over Marshall in view of Hatori et al. (U.S. Patent No. 5,977,974). Applicant respectfully traverses these rejections.

It should be noted that Applicant is disappointed with the brevity of the Office Action in light of the numerous previous claim amendments. There are 55 pending claims. However, the Examiner has not performed an adequate element by element analysis of the pending independent, as well as dependent, claims to which the Applicant can provide a reasoned response, but merely argues that the claims would be obvious in light of Marshall. Pursuant to MPEP § 706.02(j), the burden is on the examiner to establish an obvious rejection. For each claim, the Examiner should identify by column and line number the relevant teachings of the prior art relied upon for issuing a rejection, as well as explanation of why one of skill in the art would have been motivated to make the proposed modification. *See* MPEP § 706.02(j). Additionally, “[i]t is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply.” *Id.* Therefore, Applicant respectfully requests that in the future, the Examiner provides a detailed element by element analysis as to the patentability of each of the pending claims.

Applicant respectfully submits that the Examiner's reliance on the numerous cases cited from MPEP § 2144.04 is misplaced. MPEP § 2144 states that legal precedent may provide the rationale supporting obviousness only if the facts in the case relied upon are sufficiently similar to those in the application. The Examiner has not identified how the numerous cases cited in the Office Action mailed May 31, 2005 are all substantially similar to the facts of the present application. The cases cited by the Examiner are all easily distinguishable from the present application. For instance, none of the cases cited involved technology remotely similar. Additionally, none of the cases cited relates to a "method to generate a display," as all of the claims in the present application currently do.

Furthermore, the Examiner appears to be arguing "that it would always be obvious for one of ordinary skill in the art to try varying every parameter of a system in order to optimize the effectiveness of the system even if there is no evidence in the record that the prior art recognized that particular parameter affected the result." *In re Antoine*, 559 F.2d 618, 620 (CCPA 1977) (which distinguished *In re Aller*, 105 USPQ 233 (1955) upon which the Examiner relies). "The problem, however, with such 'rules of patentability' (and the ever-lengthening list of exceptions which they engender) is that they tend to becloud the ultimate legal issue—obviousness—and exalt the formal exercise of squeezing new factual situations into preestablished pigeonholes." *In re Yates*, 663 F.2d 1054 (CCPA 1981) (also distinguishing *In re Aller*).

Additionally, due to the Examiner's failure to specifically point out what pieces of prior art would have rendered all 55 claims obvious, the Examiner's position that all 55 claims are obvious, "at least on this record, [is] mere speculation." *In re Antoine*, 559 F.2d at 620. For instance, in the Amendment and Response dated September 3, 2004, Applicant amended all of the previous independent claims to include additional limitations not present in either Marshall or Hatori et al. The Examiner has not specifically identified where in the prior art such additional limitations may be found. Therefore, for the reasons specified above, Applicant respectfully submits that the Examiner's obviousness rejections to claims 1-55 have been overcome.

As discussed below, certain claims also have been amended to further distinguish the prior art.

### **Claims 1-10**

Independent claim 1 as amended recites “displaying an industry shape for each industry and a sub-industry shape for each sub-industry; selecting a first color scheme to represent characteristic industry values; selecting a second color scheme to represent characteristic sub-industry values; selecting a third color scheme to represent characteristic VC portfolio company values; graphically depicting a first real world relationship between the plurality of industries by altering the industry shapes in accordance with the first color scheme; graphically depicting a second real world relationship between the sub-industries for a given industry by altering the corresponding sub-industry shapes in accordance with the second color scheme; and graphically depicting a third real world relationship between the VC portfolio companies for a given sub-industry by altering the corresponding venture capital shapes in accordance with the third color scheme.”

Neither Marshall nor Hatori et al. disclose displaying industry shapes and sub-industry shapes, and altering industry shapes, sub-industry shapes, and venture capital shapes to graphically depict real world relationships (1) between the industries, (2) between the sub-industries and the corresponding industry, and (3) between the VC portfolio companies. Therefore, the differences between claim 1 and the prior art constitute more than merely design choice alterations.

Independent claim 1 also recites displaying a “venture capital shape” for each VC portfolio company in a sub-industry in a spiral based upon a particular characteristic. As the Examiner acknowledged on page 3 of the Office Action, Marshall does not display venture capital shapes. *See, e.g.* Fig. 3a. Accordingly, Applicant respectfully submits that independent claim 1 is not obvious in light of Marshall in view of Hatori et al.

Dependent claim 2 depends upon claim 1 and Applicant respectfully submits is allowable for similar reasons. Additionally, claim 2 as amended recites “selecting a first spatial scheme to represent a fourth real world relationship between each sub-industry and the corresponding industry; and graphically depicting the fourth real world relationship by the placement of the sub-industry shapes with respect to the corresponding industry shape in accordance with the first spatial scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between sub-industries and a given industry by spatial arrangement of sub-industry shapes.

Dependent claim 3 depends upon claim 2 and Applicant respectfully submits is allowable for similar reasons. Additionally, claim 3 as amended recites “selecting a second spatial scheme to represent a fifth real world relationship between each sub-industry and the remaining sub-industries for a given industry; and graphically depicting the fifth real world relationship by the placement of each sub-industry shape with respect to the remaining sub-industry shapes in accordance with the second spatial scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between sub-industries based upon a spatial scheme.

Dependent claim 4 depends upon claim 2 and Applicant respectfully submits is allowable for similar reasons. Additionally, claim 4 recites that “each industry shape is displayed with an indication of an industry particular characteristic, and each sub-industry shape is displayed with an indication of a sub-industry particular characteristic.” Neither Marshall nor Hatori et al. disclose displaying both industry and sub-industry shapes. *See, e.g.*, Fig. 3a. Hence, neither Marshall nor Hatori et al. disclose displaying both industry and sub-industry shapes that visually provide characteristic information.

Dependent claims 5-10 depend upon claim 4. Accordingly, Applicant respectfully submits that claims 5-10 are allowable for similar reasons.

### **Claims 11-19**

Independent claim 11 as amended recites “selecting a first color scheme to represent characteristic category values; graphically depicting a first real world relationship between the categories by altering the portions in accordance with the first color scheme; selecting a first spatial scheme to represent a second real world relationship between each sub-category and the corresponding category; graphically depicting the second real world relationship by altering the placement of the sub-portion with respect to the corresponding portion in accordance with the first spatial scheme; selecting a second color scheme to represent characteristic object values; and graphically depicting a third real world relationship between the objects of a given sub-category by altering the corresponding object shapes in accordance with the second color scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship (1) between categories by altering the appearance of portions of a display, (2) between a sub-category and the corresponding category by altering the placement of a sub-portion, and (3) between each object shape and the corresponding sub-category by altering the

appearance of the object shapes. Accordingly, Applicant respectfully submits that independent claim 11 is not obvious in light of Marshall in view of Hatori et al.

Dependent claim 12 depends upon claim 11 and Applicant respectfully submits is allowable for similar reasons. Claim 12 as amended also recites “selecting a third color scheme to represent characteristic sub-category values; and graphically depicting a fourth real world relationship between the sub-categories of a given category by altering the corresponding sub-category shapes in accordance with the second color scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between sub-categories by altering the appearance of sub-category shapes.

Additionally, claim 12 recites “displaying a category shape for each category and a sub-category shape for each sub-category.” Neither Marshall nor Hatori et al. disclose displaying a shape for each category and a shape for each corresponding sub-category.

Dependent claim 13 depends upon claim 12 and Applicant respectfully submits that claim 13 is allowable for similar reasons. Claim 13 as amended also recites “selecting a second spatial scheme to represent a fifth real world relationship between each object and the corresponding sub-category; and graphically depicting the fifth real world relationship by altering the placement of the object shapes with respect to the corresponding sub-portion in accordance with the second spatial scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship by altering the placement of object shapes within a corresponding sub-portion in accordance with a second spatial scheme.

Dependent claim 14 depends upon 12 and Applicant respectfully submits is allowable for similar reasons. Additionally, dependent claim 14 recites that “each category shape is displayed with an indication of a category particular characteristic and each sub-category shape is displayed with an indication of a sub-category particular characteristic.” Neither Marshall nor Hatori et al. disclose displaying both category and sub-category shapes. Accordingly, neither Marshall nor Hatori et al. disclose displaying both category and sub-category shapes with particular characteristics for visual identification.

Dependent claims 15-19 depend upon claim 14. Accordingly, Applicant respectfully submits that claims 15-19 are allowable for similar reasons.

### **Claims 20-27**

Independent claim 20 as amended recites “that the past financial performance of the at least one VC firm graphically depicts whether there is an investment opportunity associated with a market to which the at least one VC firm belongs.” Neither Marshall nor Hatori et al. disclose graphically depicting whether there is an investment opportunity associated with a market to which a VC firm belongs.

Additionally, claim 20 recites “generating a line to represent at least one VC firm.” As the Examiner acknowledged on page 3 of the Office Action, Marshall does not visually represent startup or VC firms. Hence, Marshall necessarily does not generate any lines representing VC firms.

Claim 20 also recites “altering the length of the linear portion” to provide an indication of a value of a characteristic of a VC firm. Marshall does not pertain to displaying information regarding VC firms. Additionally, Marshall does not alter the length of anything based upon a characteristic of a VC firm. Accordingly, Applicant respectfully submits that independent claim 20 is not obvious in light of Marshall in view of Hatori et al.

Dependent claims 21-27 depend upon claim 20. Accordingly, Applicant respectfully submits that claims 21-27 are allowable for similar reasons.

### **Claims 28-34**

Independent claim 28 as amended recites “displaying along the linear portion an indication of a value of a second characteristic and a value of a third characteristic of the at least one object for the range...graphically depicting at least one real world relationship between the first characteristic, the second characteristic, and the third characteristic; and graphically depicting a first mover advantage indicative of an investment opportunity in a specific industry.” Neither Marshall nor Hatori et al. disclose (1) displaying along the linear portion an indication of a value of a second characteristic and a value of a third characteristic of an object, (2) graphically depicting a real world relationship between a first characteristic, a second characteristic, and a third characteristic, and (3) graphically depicting a first mover advantage indicative of an investment opportunity in a specific industry.

Additionally, claim 28 recites “generating a line to represent at least one object” and allocating linear portions “along that line.” Marshall does not generate a line to represent an object, and subsequently allocate linear portions along that line based upon a first characteristic

of the object. Accordingly, Applicant respectfully submits that independent claim 28 is not obvious in light of Marshall in view of Hatori et al.

Dependent claims 29-34 depend upon claim 28. Accordingly, Applicant respectfully submits that claims 29-34 are allowable for similar reasons.

#### **Claims 35-40**

Independent claim 35 as amended recites “the arrangement of the first and second shapes graphically depict financial performance of each venture capital firm over time and at least one first mover advantage indicative of an investment opportunity in a specific industry.” Neither Marshall nor Hatori et al. disclose graphically depicting financial performance of a venture capital firm or a first mover advantage.

Additionally, claim 35 recites that “either the first or second shape, or both, indicates a value of another particular characteristic.” Hence, claim 35 recites generating first shapes on the display indicating a first particular characteristic, generating second shapes on the display indicating a second particular characteristic, and either the first or second shapes, or both, indicate a value of another particular characteristic. Neither Marshall nor Hatori et al. displays two sets of shapes representing three particular characteristics. Accordingly, Applicant respectfully submits that independent claim 35 is not obvious in light of Marshall in view of Hatori et al.

Dependent claims 36-40 depend upon claim 35. Accordingly, Applicant respectfully submits that claims 36-40 are allowable for similar reasons.

#### **Claims 41-46**

Independent claim 41 as amended recites “generating a plurality of third shapes on the display, each third shape associated with one second shape, each third shape represents a venture capital firm; selecting a first color scheme to represent characteristic industry values; selecting a second color scheme to represent characteristic sub-industry values; selecting a first spatial scheme to represent a first real world relationship between each sub-industry and the corresponding industry; graphically depicting the first real world relationship by altering the corresponding second shapes in accordance with the first spatial scheme; graphically depicting a second real world relationship between the industries by altering the first shapes in accordance with the first color scheme; and graphically depicting a third real world relationship between the

sub-industries of a given industry by altering the corresponding second shapes in accordance with the second color scheme.”

Neither Marshall nor Hatori et al. disclose graphically depicting venture capital firms or real world relationships (1) between industries by altering corresponding shapes, (2) between sub-industries by altering corresponding shapes, and (3) between sub-industries and corresponding industries by altering the placement of shapes. Accordingly, Applicant respectfully submits that independent claim 41 is not obvious in light of Marshall in view of Hatori et al.

Dependent claims 42-46 depend upon claim 41. Accordingly, Applicant respectfully submits that claims 42-46 are allowable for similar reasons.

Additionally, claim 42 as amended recites “selecting a third color scheme to represent characteristic venture capital firm values; and graphically depicting a fourth real world relationship between the venture capital firms of a given sub-industry by altering the corresponding third shapes in accordance with the third color scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between the venture capital firms of a given sub-industry.

Claim 43 as amended recites “selecting a second spatial scheme to represent a fifth real world relationship between each venture capital firm and the corresponding sub-industry; and graphically depicting the fifth real world relationship by altering the corresponding third shapes in accordance with the second spatial scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between each venture capital firm and the corresponding sub-industry by altering the arrangement of third shapes.

Claim 44 as amended recites “comprising selecting a third spatial scheme to represent a sixth real world relationship between each sub-industry within an industry; and graphically depicting the sixth real world relationship by altering the corresponding second shapes in accordance with the third spatial scheme.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between each sub-industry based upon a spatial scheme.

Claim 45 as amended recites “the graphical depictions of the first, second, third, fourth, and fifth real world relationships include superimposing second shapes upon corresponding first shapes and superimposing third shapes upon corresponding second shapes.” Neither Marshall

nor Hatori et al. disclose superimposing second shapes upon corresponding first shapes and superimposing third shapes upon corresponding second shapes.

Claim 46 as amended recites “the graphical depictions of the first, second, and third real world relationships identify a first mover advantage.” Neither Marshall nor Hatori et al. disclose identifying a first mover advantage.

### **Claims 47-55**

Independent claim 47 as amended recites “graphically depicting a first real world relationship between the industries by altering the industry icons; graphically depicting a second real world relationship between the sub-industries of a given industry by altering the corresponding sub-industry icons; and graphically depicting a third real world relationship between the startup companies of a given sub-industry by altering the corresponding startup icons.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship (1) between the industries by altering the industry icons, (2) between the sub-industries of a given industry by altering the corresponding sub-industry icons; and (3) between the startup companies of a given sub-industry by altering the corresponding startup icons.

Claim 47 also recites a “startup icon that represents a startup company.” As the acknowledged on page 3 of the Office Action, Marshall does not relate to startup companies. Accordingly, Applicant respectfully submits that independent claim 47 is not obvious in light of Marshall in view of Hatori et al.

Dependent claims 48-55 depend upon claim 47. Accordingly, Applicant respectfully submits that claims 48-55 are allowable for similar reasons.

Additionally, claim 48 as amended recites a “first mover advantage indicative of an investment opportunity in a specific industry.” Neither Marshall nor Hatori et al. disclose a first mover advantage that indicates an investment opportunity in a specific industry.

Claim 50 as amended recites “graphically depicting a fourth real world relationship between each sub-industry and the corresponding industry by altering the placement of each sub-industry icon with respect to the corresponding industry icon.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between each sub-industry and the corresponding industry by altering the placement of sub-industry icons with respect to corresponding industry icons.

Claim 51 as amended recites “the color or size of each sub-industry icon is altered to represent the total investment in that sub-industry.” Neither Marshall nor Hatori et al. disclose representing the total investment in a sub-industry.

Claim 52 as amended recites “graphically depicting characteristics of the industries, the sub-industries, and the startup companies by altering the color or size of the industry icons, the sub-industry icons, and the startup icons, respectively.” Neither Marshall nor Hatori et al. disclose graphically depicting characteristics of the industries, the sub-industries, and the startup companies by altering industry icons, sub-industry icons, and startup icons.

Claim 53 as amended recites “graphically depicting a real world relationship between each startup company and the corresponding sub-industry by altering the arrangement of the startup icons within the corresponding sub-industry icon.” Neither Marshall nor Hatori et al. disclose graphically depicting a real world relationship between each startup company and the corresponding sub-industry by altering the arrangement of startup icons within a corresponding sub-industry icon.

Claim 55 as amended recites “at least one of the sub-industry icons is not superimposed upon the corresponding industry icon as an indication of the fourth real world relationship.” Neither Marshall nor Hatori et al. disclose not superimposing a sub-industry icon upon a corresponding industry icon as an indication of a real world relationship between the sub-industry and the corresponding industry.

## SUMMARY

Applicant respectfully submits that all of the pending claims are in condition for allowance and seeks allowance thereof. If for any reason the Examiner is unable to allow the application but believes that an interview would be helpful to resolve any issues, he is respectfully requested to call the undersigned at (312) 321-4277.

Respectfully submitted,



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